

STATE OF MICHIGAN
IN THE SUPREME COURT

HON. DIANE M. HATHAWAY

Michigan Supreme Court
3034 W. Grand Blvd.
Suite 8-500
Detroit, Michigan 48202

MSC Docket No.
Formal Complaint No. 91

MOTION FOR IMMEDIATE CONSIDERATION

The Judicial Tenure Commission, through its Examiner, requests that the Supreme Court give immediate consideration to its petition for interim suspension filed concurrently with this motion, based on the following:

1. Respondent is, and at all material times was, a justice of the Supreme Court, State of Michigan.
2. As a judge, Respondent is subject to all the duties and responsibilities imposed on her by the Michigan Supreme Court, including those under the Code of Judicial Conduct, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.
3. On January 7, 2013, the Michigan Judicial Tenure Commission (JTC) authorized a formal complaint (FC 91) against Hon. Diane Marie Hathaway

(Respondent), currently a Justice of the Michigan Supreme Court¹, and the filing of a Petition for Interim Suspension with the Supreme Court.

4. The formal complaint and petition relate, in part, to allegations that Respondent and her husband orchestrated the forgiveness of approximately \$600,000 in mortgage debt in a short sales transaction, through spurious real property transactions, hiding assets, and misrepresentations to the lending bank.

5. A civil forfeiture action is currently pending as to real property in Windermere, Florida owned by Respondent and her husband (*United States of America v Certain Real Property located at 2709 Butler Bay Drive N. Windermere, Florida*, United States District Court, Eastern District of Michigan Case No. 12-15103).

6. That complaint is based on allegations that the Florida property constitutes proceeds, or property traceable thereto, of financial institution fraud in violation of 18 USC 1344, and money laundering in violation of 18 USC 1956, relating to the short sale transaction.

7. The formal complaint and petition are also based on allegations that Respondent admitted to engaging in the fraudulent concealment of assets from

¹ Respondent is disqualified from considering this motion. See MCR 2.003; MCR 9.204(A); *In re Justin*, 490 Mich 394 (2012).

potential creditors as to the Florida property, and misrepresentations to the Commission in the course of its investigation.

8. The Supreme Court has scheduled oral arguments for Wednesday, January 9, 2013.

9. In order to preserve the integrity of the judiciary and to protect the public, the petition for interim suspension should be considered and decided before that date.

WHEREFORE, pursuant to MCR 7.313(A)(5), the Michigan Judicial Tenure Commission requests that this Honorable Court give immediate consideration to its Petition for Interim Suspension.

Respectfully submitted,

JUDICIAL TENURE COMMISSION
OF THE STATE OF MICHIGAN

3034 W. Grand Boulevard, Suite 8-450
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By: _____/s/
Paul Fischer (P35454)
Examiner

_____/s/
Casimir J. Swastek (P42767)
Associate Examiner

January 7, 2013